

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

DANIEL LEE UHRICH,
Plaintiff,

vs.

WARDEN REYES, *et al.*,
Defendants.

5:25-CV-05002-CBK

ORDER

Plaintiff filed a *pro se* complaint and was granted leave to proceed *in forma pauperis* without the prepayment of the filing fee. He has failed to timely pay the initial filing fee but has instead moved to dismiss this case prior to service of process.

Under the Prison Litigation Reform Act, plaintiff must pay the full \$350 filing fee notwithstanding whether or not the matter is subsequently dismissed. 28 U.S.C. § 1915(b)(1). In my prior order, I directed the institution having custody of the plaintiff to forward monthly payments from the plaintiff's prisoner trust account to the U.S. District Court Clerk's office pursuant to 28 U.S.C. § 1915(b)(2), until the \$350.00 filing fee is paid in full. The motion to dismiss does not alter the prior order.

Plaintiff states in his motion that he is seeking dismissal with prejudice but also states that he seeks to preserve and reserve his right to pursue his claim in state court. This Court is obligated to construe the *pro se* plaintiff's motion to dismiss liberally, Erickson v. Pardus, 551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L. Ed. 2d 1081 (2007), so as to do justice, Fed. R. Civ. P. 8(c). Accordingly,

IT IS ORDERED that plaintiff's motion, Doc. 8, to dismiss is granted. This matter is dismissed without prejudice and without costs.

DATED this 7th of March, 2025.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge